IN THE HIGH COURT OF JUDICATURE, ANDHRA PRADESH
AT HYDERABAD

(Special Original Jurisdiction)

THURSDAY, THE FIRST DAY OF JULY
TWO THOUSAND AND FOUR

PRESENT

THE HON'BLE MR JUSTICE B. SUDERSHAN REDDY

WRIT PETITION NO : 4489 of 1994

Between:

1.K.Satyanarayana, S/o K.Narayana, aged 39 years,

R/o Neeladripuram village, Unguturu mandal, W.G.District.

2.Kotharu Venkataratnamma, W/o K.Narayana,

aged 58 years, R/o Neeladripuram village, Unguturu mandal, W.G.District

3. K.S.R.K.V.Prasad. S/o.K.Narayana, aged 44 years, R/o. Neeladripuram village, Unguturu mandal, W.G.District

4. K.R.Kumar, S/o K.Narayana, aged 41 years, R/o Neeladripuram village, Unguturu mandal, W.G.District

5. Yaramolu Satyavathi, w/o Y.Eramuru, aged 46 years, R/o Neeladripuram village, Unguturu mandal, W.G.District

6. Kotharu Surya Narayana, S/o K.Narayana, aged 32 years, R/o Neeladripuram village, Unguturu mandal, W.G.District

7. Kotharu Rama Mohana Rao, S/o K.Satyanarayanamurthy, aged, 41 years, R/o. Neeladripuram village, Unguturu mandal, W.G.District

..... PETITIONERS

AND

1. The District Collector, Eluru, West Godavari District.

2. Dirsipam Nagabhushanam, S/o Vanamaiah, 45 years,

R/o.Neeladripuram, Unguturu, Mandal, W.G.Dist.

3. D.Venkata Rao, S/o.Veeraswamy, 30 years.

4. Tadigadapa Subba Rao S/o.Brahmaiah, 52 years.

5. Tadigadapa Subba Rao S/o.Bapiraju, 32 years

6. Dirsipam Ramaiah S/o. Moshe, 31 years

7.Tadigadapa Yesobu S/o Pedda Mukkaiah, 33 years.

8. Kallem prasada Rao S/o Subbaiah, 32 years.

9. Potla Rama Rao S/o Naganna, 30 years.

10. Tanimki Jaya Raju, S/o Dharmaiah, 32 years.

11.Dirsipam Yesobu S/o Bhushaiah, 48 years.

(Respondents 2 to 11 are residents of Neeladripuram, Unguturu Mandal, West Godavari District and they were impleaded as respondents vide court order dated 1.7.2004 in WPMP No.12937 of 1994.)

.....RESPONDENTs

Petition under Article 226 of the constitution of India praying that in the circumstances stated in the Affidavit filed herein the High Court will be pleased to issue a Writ of Certiorari calling for the records relating to 4(1) notification N.F.S.W.133/93 dated 3.1.1994 as published in Eenadu Daily dated 13.1.1994 issued by the respondent herein and quash the same declaring it as arbitrary and illegal and pass such other orders as the Honourable Court may deem fit and proper.

For the Petitioner :MR.C.RAMACHANDRA RAJU, Advocate

For the Respondent No.: GP FOR LAND ACQUISITION for R.1

Mr..Nanda Kishore for RR2 to 11

The Court Made the Following Order :

The petitioners invoke the extraordinary jurisdiction of this Court under Article 226 of the Constitution of India with a prayer to set aside Notification No. F.S.W.133/93 dated 3.1.1994 issued in purported exercise of the power under Section 4(1) of the Land Acquisition Act, 1894 ('the Act' for brevity) as published in the newspapers dated 13.1.1994 after declaring the same to be illegal.

The petitioners claim to be small farmers, each one of them owning less than Ac.2.50 cents of land. They are aggrieved by the action of the respondents in proposing to acquire the lands situated in S.Nos. 52/1, 52/5 and 52/3 of Unguturu village, admeasuring Ac.8.05 cents by way of 4(1) notification dated 13.1.1994. The

land is sought to be acquired for the purpose of providing house sites to the weaker sections of the society.

The main submission made and the contention raised is that the respondents herein have already acquired an extent of Ac.11.32 cents of agricultural land in Rs.Nos.58/1A of Neeladripuram village belonging to one Gadde Jayanarayana and gadde Raghavayya for the very same purpose of providing house sites to the weaker sections of the society. The said individuals have challenged the acquisition by way of W.P.No.3072 of 1976 which was dismissed by this Court vide its order dated 21.12.1976. W.A.No.107 of 1977 preferred by them was also dismissed upholding the validity of the acquisition proceedings and in spite of the decision of this Court, the respondents have chosen not to take possession of the said land by finalizing the acquisition proceedings but have chosen to acquire the land belonging to the petitioners. It is nothing but an act of discrimination.

This Court vide its order dated 17.3.1994 having admitted the writ petition granted interim directions directing the respondents not to dispossess the petitioners from the lands in question. The respondents have not chosen to file any counter affidavit rebutting the allegations levelled by the petitioners and therefore the allegations and averments made in the affidavit filed in support of the writ petition remain uncontroverted.

No reasons are forthcoming from the respondents as to why they have proposed to acquire the lands belonging to the petitioners even after initiating the proceedings to acquire the lands belonging to other individuals viz., Gadde Jayanarayana and Gadde Raghavayya for the very same purpose. No reasons are forthcoming as to why the possession of the lands is not taken pursuant to the notification issued earlier even after this Court upheld the same.

For the aforesaid reasons, the proposal initiated by the respondents to acquire the lands of the petitioners herein is to be held arbitrary. The same is accordingly set aside. The writ petition is accordingly allowed. No costs.

01..07..2004

msv.

ASSISTANT REGISTRAR

// TRUE COPY //

SECTION OFFICER

To

1. The District Collector, Eluru, West Godavari District.

2 2 ccs to Government Pleader for Land Acquisition, High Court of A.P.Hyderabad (OUT)

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